



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2022-0170; FXES11140800000-234-FF08ECAR00]

Endangered and Threatened Wildlife and Plants; Wind Energy Condor Action Team Projects, Kern County, CA; Incidental Take Permit Application and Draft Conservation Plan; Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the Wind Energy Condor Action Team (WECAT) for an incidental take permit under the Endangered Species Act. The permit, if granted, would authorize take of the federally endangered California condor (*Gymnogyps californianus*), incidental to otherwise lawful activities associated with the operation of WECAT members' separate wind energy projects. Available for comment are the draft conservation plan that WECAT prepared in support of their application, and a draft environmental assessment, which we have prepared pursuant to the National Environmental Policy Act. We invite comments from the public and Federal, Tribal, State, and local governments. We will take comments into consideration before deciding whether to issue an incidental take permit.

DATES: Written comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS-R8-ES-2022-0170 at <https://www.regulations.gov>, or you may request copies of the documents by phone or email (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Comments: Please submit your written comments using one

of the following methods:

- Online: <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2022-0170.
- U.S. mail: Public Comments Processing, Attn: Docket No. FWS-R8-ES-2022-0170; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

For more information, see **Public Availability of Comments** under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Peter Sanzenbacher, Fish and Wildlife Biologist, by email at peter_sanzenbacher@fws.gov or via phone at (442) 222-0165. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Wind Energy Condor Action Team (WECAT) for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application addresses the potential take of the federally endangered California condor (condor; *Gymnogyps californianus*), incidental to the otherwise lawful operation of wind energy projects owned by WECAT members, as described in the WECAT conservation plan.

Background

The Service listed the California condor as endangered on February 24, 1967 (67 FR 2758). Section 9 of the ESA (16 U.S.C. 1538) and Federal regulations prohibit the “take” of animal species listed as endangered or threatened without special exemption.

Under the ESA, “take” is defined to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered species are set forth in the Code of Federal Regulations (CFR) at 50 CFR 17.22. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species, pursuant to section 7 of the ESA and 50 CFR 402.02. The permittee would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5)).

Permit Application and Associated Documents

WECAT has submitted a draft conservation plan that describes the activities that would be covered by the incidental take permit, which include the operation of wind turbines and other wind energy facility infrastructure (i.e., above-ground power lines and poles, meteorological towers, and substations and switchyards) at WECAT member projects. To minimize the risk of incidental take of California condors, the WECAT members will maintain programs to detect condors approaching covered projects, and temporarily curtail operation of wind turbines when appropriate. The conservation plan also includes use of adaptive management to allow for maintaining the protection of condors as technologies, condor behavior, and other factors change over time. To mitigate the impact of incidental take, the applicants propose to work with an existing captive breeding facility to fund the production of additional condors for release into the wild. The Service and applicants used the results of population modeling and a population viability analysis conducted by a team of independent researchers to inform the mitigation strategy and ensure that the level of potential injury and mortality of condors permitted at covered projects would not impede the recovery of the species. A

report documenting the methods and results of these analyses is appended to the draft conservation plan. A “Frequently Asked Questions” document for the analyses described above is attached to the draft environmental assessment (EA). The draft conservation plan and the draft EA also consider alternatives to the proposed action, including a no action alternative.

National Environmental Policy Act Compliance

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires Federal agencies to analyze their proposed actions to determine whether the actions may significantly affect the human environment. In the NEPA analysis, the Federal agency will identify the effects, as well as possible mitigation for effects on environmental resources, that could occur with the implementation of the proposed action and alternatives. The Federal action in this case is the Service’s proposed issuance of an incidental take permit for the federally endangered California condor. The Service prepared a draft EA to analyze the impacts of issuing the incidental take permit as described in the conservation plan, and to inform the public of the proposed action, alternatives, and associated impacts.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing

regulations (40 CFR 1506.6).

Scott Sobiech,
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